

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS  
EAST ST. LOUIS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FUNDS IN THE AMOUNT OF  
FIVE HUNDRED TEN THOUSAND  
NINE HUNDRED TEN DOLLARS  
(\$510,910.00) in U.S. CURRENCY, and  
ONE FORD FOREST RIVER FORESTER  
RECREATIONAL VEHICLE, BEARING  
VIN: 1FDWS9PM1GKA97463, WITH  
ALL ACCESSORIES, ATTACHMENTS,  
AND COMPONENTS THEREON, et al

Defendants.

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PATRICK N. BARBER and STEPHEN M. KOMIE

Claimants.

No. 3:18-cv-1683-NJR-MAB

**CLAIMANT'S GENERAL DENIAL OF AMENDED VERIFIED COMPLAINT**

NOW COMES Claimant, PATRICK N. BARBER, by and through his attorney STEPHEN M. KOMIE of KOMIE AND ASSOCIATES and pursuant to the Federal Rules of Civil Procedure enters a general denial.

**General Denial**

Claimant, PATRICK N. BARBER, pursuant to Rule 8(b) enters a general denial of the verified complaint.

**Affirmative Defenses**

A1. Claimant PATRICK N. BARBER denies jurisdiction over the Defendant *Res*, the Forest River Recreational Vehicle and its contents, and all other property seized from Claimant and

described in the Amended Complaint as the officers who stopped and seized Claimant and his possessions did not have jurisdiction and legal authority to make the purported traffic stop.

- A2. Claimant PATRICK N. BARBER denies jurisdiction over the Defendant *Res* as the Defendant *Res* was destroyed and no longer exists due to Plaintiff's affirmative act of depositing the money in a bank without leave of court.
- A3. The complaint fails to state a claim upon which relief can be granted.
- A4. That the search, seizure, arrest of Defendants *Res*, and proceeding *in rem* forfeiture violates the Fifth Amendment rights of Claimant to obtain just compensation from his government for the seizure of his property.
- A5. That Illinois police officers, in violation of the Illinois constitution and Statutes of the State of Illinois, stopped, searched, and arrested the Defendants *Res*.
- A6. That these proceedings are used as a vehicle to employ summary judgment to deprive Claimant of his historic constitutional rights to a jury trial in *in rem* forfeiture proceedings.
- A7. That Claimant's rights under the Fourth Amendment were violated in the search and seizure performed by Illinois peace officers who seized the defendant currency and his possessions.

- A8. That there was no probable cause for the seizure of defendant currency and Claimant's possessions except for the presence of Claimant in the vehicle.
- A9. That there was no reasonable suspicion to stop Claimant.
- A10. That the Defendants *Res*, the Defendant RV, and any and all other property seized from Claimant was not: (1) furnished or intended to be furnished in exchange for a controlled substance, (2) traceable to such an exchange, or (3) used or intended to be used to facilitate a violation of Title 21 U.S.C. § 881(a)(6).
- A11. That Claimant is the innocent owner of possibly contaminated currency.
- A12. That United States currency is contaminated with trace amounts of drugs which can lead to a canine alert, although, the money has not been derived from, a part of, or intended to be used in a controlled substance transaction.
- A13. That the property to be forfeited is in violation of the excessive fines clause of the United States Constitution.
- A14. That the Defendant currency has been destroyed by action of the Plaintiff, resulting in spoliation of evidence and denial of due process rights of the claimant to obtain evidence on his own behalf.

**Counter Claim**

**Count I**  
**Attorney's Fees and Costs**

1. That Claimant believes he is entitled to attorneys' fees and costs of this action together with interest as provided by the Civil Asset Forfeiture Reform Act.

**Conclusion**

WHEREFORE, the Claimant, PATRICK N. BARBER, respectfully prays this Court enter judgment in favor of Claimants and against Plaintiff and respectfully prays for the following relief:

- A. That the Court enter a judgment in favor of Claimants and against the United States;
- B. That the Court grant costs in connection with the pursuit of a claim in this action;
- C. That the Court award interest as provided by law; and

D. That the Court, pursuant to statute as made and provided, award attorneys' fees and litigation expenses for this action.

Respectfully submitted,

PATRICK N. BARBER, Claimant  
by and through his attorneys  
KOMIE AND ASSOCIATES

By: /s/Stephen M. Komie  
Stephen M. Komie

Stephen M. Komie, Esq.  
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**VERIFICATION**

I, PATRICK N. BARBER, Claimant, under the penalties of perjury as provided by law, certifies the statements set forth in the General Denial of the Amended Verified Complaint are true and correct, except as to matters therein stated to be on information and belief and, as to such matters, the undersigned certifies as aforesaid that I verily believe the same to be true.

Dated:

January 17, 2019

Patrick N. Barber  
PATRICK N. BARBER

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**CERTIFICATE OF SERVICE**

The undersigned, an attorney, deposes and states that a true and correct copy of **Claimant Patrick N. Barber's Answer to the First Amended Verified Complaint** has been served upon the below named party(ies), by filing said document in the CM/ECF system on January 18, 2019.

TO: William Coonan  
Assistant United States Attorney  
Nine Executive Drive  
Fairview Heights, Illinois 62208

Clerk of the U.S. District Court  
for the Southern District of Illinois  
750 East Missouri Avenue  
East St. Louis, Illinois 62201

/s/Stephen M. Komie

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